

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

John Wesley Graves,)	
)	
Petitioner,)	Civil Action No.: 6:16-cv-3734-TLW
)	
v.)	
)	ORDER
United States of America,)	
)	
Respondent.)	
)	

Petitioner John Wesley Graves (“Petitioner”), proceeding *pro se*, filed the instant habeas petition pursuant to 28 U.S.C. § 2241. ECF No. 1. He argues that his counsel was ineffective for failing to advise him that, under the terms of his plea agreement, a change in the law would not modify his sentence. *Id* at 3. This matter is before the Court for review of the Report and Recommendation (“the Report”) filed on December 6, 2016 by United States Magistrate Judge Kevin F. McDonald, to whom this case had previously been assigned pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(c), D.S.C. ECF No. 4. In the Report, the Magistrate Judge recommends characterizing the instant action as a § 2255 petition and reassigning the case to the sentencing judge. *Id*. Objections were due on December 20, 2016, but Petitioner did not object to the Report. The matter is now ripe for disposition.

The Court is charged with conducting a *de novo* review of any portion of the Report to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained therein. 28 U.S.C. § 636. However, in the absence of objections to the Report, the Court is not required to give any explanation for adopting the Magistrate Judge’s recommendation. *See Camby v. Davis*, 718 F.2d 198, 200 (4th Cir. 1983). In such a case, “a district court need not conduct a *de novo* review, but instead must ‘only satisfy itself that there is

no clear error on the face of the record in order to accept the recommendation.”” *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

In light of this standard, the Court has carefully reviewed the Report, the relevant filings, and the applicable law and notes that Petitioner has not filed objections to the Report. After careful consideration, the Court accepts the legal analysis by the Magistrate Judge in the Report. It is hereby **ORDERED** that the Report, ECF No. 4, is **ACCEPTED**. For the reasons articulated by the Magistrate Judge, the petition, ECF No. 1, is hereby characterized as a habeas petition pursuant to 28 U.S.C. § 2255 and reassigned to the sentencing judge.

IT IS SO ORDERED.

s/Terry L. Wooten

TERRY L. WOOTEN

Chief United States District Judge

January 11, 2017
Columbia, South Carolina